AFR

(18)

HIGH COURT OF CHHATTISGARH AT BILASPUR

WRIT PETITION (S) No. 5074 of 2006

PETITIONER : Ku. Shiv Kumari D/o. Late Jai Karan Mother – Late Jeera Bai aged about 18 years R/o Village Meko, Post Baikunthpur Distt. Koria (C.G.) At present R/o Village Sardi (Pandopara), Post Charcha Colliery, P.S. Charcha Colliery, Tahsil Baikunthpur, Distt. Koria (C.G.)

VERSUS

RESPONDENTS : 1. South Eastern Coalfields Limited Through: Chief General Manager S.E.C.L. Baikunthpur area, Baikunthpur Distt. Koria (C.G.)
2. Sub-Area Manager S.E.C.L. Charcha East Colliery Tahsil Baikunthpur, Distt. Koria (C.G.)
3. Personnel Manager (Karmik Prabandhak) (Shram Shakti) S.E.C.L. Bilaspur (C.G.)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA.

Single Bench : Hon'ble Justice Shri Satish K. Agnihotri.

Present: Shri D.N.Prajapati, Advocate for the petitioner.
Shri H.B.Agrawal, Sr. Advocate with Shri J.K.Gupta, Advocate for the respondents.

ORDER

(Passed on 3rd day of May, 2007)

1. As per policy under National Coal Wages Agreement, Chapter 9 "Social Security", clause 9.3.0 makes provisions for employment to the dependents of the workers who are disabled permanently and also those who die while in service. Clause 9.5.0 deals with employment/monetary compensation to female dependents. Clause 9.5.0 provides for either employment to the female dependent or payment of monetary compensation at the rate of Rs. 3000/- per month.

(49)

2. The application dated 21.05.2005 (Annexure P/6) filed by the petitioner, was rejected on the ground that she was under age for employment. In that event, the petitioner ought to have been provided monetary compensation as per clause 9.5.0 (ii) and (iii) of Chapter 9 of the National Coal Wages Agreement. It is beneficial to quote the relevant provisions:

> **"9.3.0 Provision of Employment to Dependants**
>
> **9.3.1** Employment would be provided to one dependant of workers who are disabled permanently and also those who die while in service. The provisions will be implemented as follows:
>
> **9.3.2 Employment to one dependant of the worker who dies while in service**
>
> In so far as female dependants are concerned, their employment/payment of monetary compensation would be governed by para 9.5.0.
>
> **9.5.0 Employment/Monetary compensation to female dependant**
>
> (ii) In case of death/total permanent disablement due to cause other than mine accident and medical unfitness under Clause 9.4.0, if the female dependant is below the age of 45 years, she will have the option either to accept the monetary compensation of Rs. 3000/- per month or employment.
>
> In case of female dependant is above 45 years of age she will be entitled only to monetary compensation and not to employment.
>
> (iii) In case of death either in mine accident or for other reasons or medical unfitness under Clause 9.4.0, if no employment has been offered and the male dependant of the concerned worker is 12 years and above in age, he will be kept on a live roster and would be provided employment commensurate with his skill and qualifications when he attains the age of 18 years. During the period the male dependant is on live roster, the female dependant will be paid monetary compensation as per rates at paras (i) and (ii) above. This will be effective from 1.1.2000."

3. Admittedly, the petitioner is the daughter of the deceased employee i.e. Smt. Jeera Bai who died in harness. In view of the clear provisions of law, the petitioner is entitled to either employment or monetary compensation. Accordingly, the respondents are directed to consider the case of the petitioner for employment, if she has attained majority or for payment of monetary compensation as per N.C.W.A. within a period of two months from the date of receipt of a copy of this order.

4. In view of the above, the petition is accordingly allowed. No order as to costs.

Sd/-
Satish K. Agnihotri
Judge

Amit